

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

CYNTHIA D. PAJAK,

Plaintiff,

v.

**UNDER ARMOUR, INC.,
UNDER ARMOUR RETAIL, INC.,
AND BRIAN BOUCHER,**

Defendants.

**Civil Action No. 1:19-CV-160
(JUDGE KEELEY)**

**MEMORANDUM OPINION AND ORDER DENYING AS MOOT
PLAINTIFF'S MOTION TO COMPEL DEPOSITION TESTIMONY
OF DEFENDANT BRIAN BOUCHER [ECF. NO. 508]**

This matter is before the undersigned pursuant to a Referral Order [ECF No. 510] entered by Honorable Senior United States District Judge Irene M. Keeley on August 31, 2021. By this Referral Order, Judge Keeley referred Plaintiff's Motion to Compel Deposition Testimony of Brian Boucher [ECF No. 508] to the undersigned for a hearing and disposition. To this end, the undersigned also is in receipt of Plaintiff's memorandum in support of her motion [ECF No. 509] as well as Boucher's response, thereto. [ECF No. 513]. The undersigned scheduled the matter for hearing for September 10, 2021. [ECF No. 511].

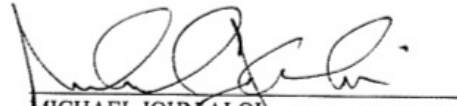
However, on September 8, 2021, Plaintiff's counsel advised chambers staff that the parties reached agreement as to the matters raised in Plaintiff's motion and that the hearing set for September 10, 2021 is unnecessary. Specifically, per Plaintiff's counsel, the agreement the parties reached is as follows: Under Armour withdraws its instructions to Boucher not to answer certain questions lodged during his previous deposition; Plaintiff agrees not to use Under Armour's withdrawals to support any argument that Defendants have waived attorney-client privilege or work product protections; and Boucher will make himself available for further deposition as to

certain areas of inquiry. Counsel for both Boucher and Under Armour advised chambers staff that they were in agreement with these representations by Plaintiff's counsel.

Accordingly, based on the foregoing, Plaintiff's motion [ECF No. 508] is **DENIED as moot**. The motion hearing set before the undersigned on September 10, 2021 is hereby **CANCELLED** and the Clerk of the Court is **DIRECTED** to remove said hearing from the Court's docket. It is all so **ORDERED**.

The Court directs the Clerk of the Court to provide a copy of this Order to any parties who appear *pro se* and all counsel of record, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: September 9, 2021.



MICHAEL JOHN ALOIS
UNITED STATES MAGISTRATE JUDGE